

## REMARKS

In response to the Office Action dated February 23, 2006, the Applicant has canceled the existing claims and replaced them with 18 apparatus claims believed to better describe the present invention.

### Background

The present invention permits a patient to have direct access to the same medical records that are used by the patient's physician and other healthcare providers to deliver healthcare services to the patient.

Importantly, the invention eliminates the need for different databases, one for the patient, and one for the physician, that create problems of completeness, accuracy, and concurrency, and that can be difficult and costly to manage. As part of the invention, the inventors solved the problems of preserving the accuracy and availability of clinical records when the patient is given direct read and write privileges to clinical records and when clinical records are exposed to the hazards of the Internet.

### Claim Rejections §35 U.S.C. 102

The previous claims were rejected over Ilsen which also teaches a system for providing medical data to a patient over the Web.

Claim 55 of the present invention distinguishes from Ilsen in two ways:

First, Ilsen does not allow the patient and doctor to access the same database. Specifically, Ilsen does not provide a "medical record database", as is now claimed, where "same location is accessed by both provider and patient". Describing access to a "same location" in a "single data model", is a precise method of claiming a single database and one which accommodates the fact that modern databases often have data distributed among multiple physical devices and normally have backup or mirror copies for reasons of safety and performance.

Second, because Ilsen's does not allow the patient to share the clinical record used by the doctor, Ilsen does not give the patient access to important information, for example, medical test results, that are found only in a "medical record database" holding "clinical information specific to given patients and used for the delivery of medical services to those patients" as is now expressly claimed.

Superficially, Ilsen appears to provide direct access to the clinical record, but a close reading of Ilsen reveals that Ilsen derives patient readable data from the administrative records, and in particular billing and scheduling records. Thus Ilsen states at col. 10, lines 31-35:

The enhanced communication provided by ePPi involves little or no training, no conversion of existing systems, and is based essentially entirely on the doctor's own existing administrative systems.

And at Col. 4, lines 41-52, states:

At the core of the present invention is a fully automated mechanism for generating a personalized area (patient pages) for each patient within the doctor's or health-care group's Web site in the ePPi system. Custom mappings are established in the ePPi system between the practice's common visit codes, diagnoses codes and procedure codes, thereby permitting automatic delivery of content to the patient through the logic of the system. Thus, the patient's page is created without extra work or effort by the practice through an automated process that uses the data that has already been entered into the practitioner's scheduling and billing systems.

Because Ilsen does not allow the patient to access the clinical record, Ilsen must provide a separate "patient-safe" database that is populated by a "sweeper" program described, for example, at col. 33, line 60 to col. 34, line 4:

To handle the collection of patient-specific episodic information that drives customization of content to the patients, a dedicated program called the POMSSweeper checks ("sweeps") designated folders on the ePPi Service Center server(s) for data files and reports that have arrived from the Practice Office Management Systems (POMS)--the scheduling and billing systems of the various practices. The files arrive via e-mail or FTP (File Transfer Protocol) or any other transport mechanism which can place them into a designated folder on one of servers in the ePPi Service Center. The file transfers can occur daily, or more frequently if the practice desires.

The need for a sweeping process and a second set of data files makes a system that is difficult to maintain. For example, any change in the "swept" database requires additional modification of the sweeping program and possibly the structure of the "patient safe" database. As a practical matter, the timeliness of the data delivered to the patient is decreased and the scope of data delivered to the patient is limited in the dual database approach adopted by Ilsen.

Claim 56 addresses a single important distinction between the present invention and Ilsen that flows from the fact that Ilsen does not provide access to a true clinical database. Specifically, Ilsen does not teach, suggest, or enable providing the patient with medical test results. This small feature, desired by patients, is beyond the reach of Ilsen because test results (as opposed to the scheduling of the test) cannot be extracted from billing or scheduling data.

Claim 57 covers a mechanism adopted by a preferred embodiment of present invention that allows patient access (both reading and writing) of the actual clinical record database. In particular, these claims describe the partitioning of "physician-created" and "patient-created" data in the same single data repository with different privileges assigned to each partition. Because Ilsen does not suggest a patient/physician shared medical record system, Ilsen cannot suggest this claim limitation.

Claims 58-60 address the features of: allowing patient input to a single clinical database also used by the patient's physician and other healthcare providers; preventing corruption of the clinical data; and providing a mechanism for communicating to the physician through the agency of a shared data structure. While Ilsen teaches accepting data from the patient there is no indication that this data is placed in a shared clinical record, or any teaching in Ilsen of how corruption of a clinical record would be avoided if this were done.

Claims 61-62 describe messaging and appointment systems that can be integrated into the single database structure of the clinical record system. Ilsen's complex system with multiple databases teaches away from this innovation which allows a single point of medical information gathering and dissemination.

Claims 63-70 are similar to claims 55-62 but include "at least one duplicate medical record database", that is, a database having the same data model as the medical

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record database. These claims are intended to prevent the claims from being avoided simply by adopting the well-known practices of backing up a single clinical database (with a copy of the database) or providing mirror copies (for example that of the shadow server described in the present application).

In light of these new claims and remarks, it is believed that claims 55-70 are now in condition for allowance, and allowance is respectfully requested.

Respectfully submitted,

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